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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,405	03/19/2001	Kenneth H. Crain	108292.00008	3389

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EXAMINER
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KE, PENG

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/812,405

Applicant(s)

CRAIN ET AL.

Examiner

Peng Ke

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 7/18/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is responsive to communications: Amendment, filed on 7/18/06.

This action is final.

Claims 1-15, and 18-21 are pending in this application. Claims 1, 13, and 21 are independent claims. In the Amendment, filed on 7/18/06, claims 1, 13, and 21 were amended.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rapaport et al, U.S. Patent No. 5,890,152 in view of Ezekiel et al. US Patent 5,625,783.

As per claim 1, Rapaport et al. teaches a system that enables a recording of user-viewable stimuli comprising:

A processing platform for executing code capable of recording a user-viewable visual stimuli; (see Rapaport et al., column 2, lines 34 – 40; the examiner interprets user-viewable stimuli to be any data viewable by the user);

verifying a change in the visual stimuli (see Rapaport, column 12, lines 33 – 37; the examiner interprets determining whether a scroll bar is depressed as verifying a change in visual

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stimuli), without requiring user specified information as input (column 12, line 46-68; Sensing changes in eye pupil diameter is neither an user specified information nor a examination of how the user is looking at the visual stimuli); and

creating a visual event related to the change in the visual stimuli (see Rapaport, column 12, lines 37 – 40; the examiner interprets changing the activation value of the profile relating to the media file as creating a visual event relating to the change in visual stimuli); and

A storage platform for storing at least the user-viewed visual stimuli, wherein the storage platform is operably coupled to the processing platform (see Rapaport, column 2, lines 32 - 34).

Wherein the processing platform is adopted to reconstruct at least one of:

The visual stimuli (see Rapaport col. 23, lines 62-68); and

The change in the visual stimuli, at a specific time that a user viewed the visual stimuli.  
(see Rapaport col. 23, lines 62-68)

However Rapaport fails to teach creating a visual event as a result of a browser event that causes a change in the visual stimuli;

Ezekiel teaches creating a visual event as a result of a user interaction event that causes a change in the visual stimuli; (see, Ezekiel; column 3, lines 10-40)

It would have been obvious to an artisan at the time of the invention to include Ezekiel's teaching with system of Rapaport in order to provide users with a computer system that can automatically and dynamically construct user inter menus "on the fly."

As per claim 2, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a user

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interaction device coupled to the processing platform (see Rapaport et al., column 2, lines 31 – 32).

As per claim 3, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport further teaches the system wherein the processing platform executes code capable of recording a user-viewable stimuli, by:

detecting a visual event;

verifying that the visual event involves a parameter that changes a viewable stimuli; and

recording at least one parameter (see Rapaport et al., column 12, lines 26 – 40; the user's progression through the media file segment is interpreted as the visual event, the rate of this progression is detected, analyzed and if there is a change the activation value parameter is changed and stored).

As per claim 4, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a browser coupled to the processing platform (see Rapaport et al., column 2, line 33).

As per claim 5, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a browser interface coupled to a processing platform (see Rapaport et al., column 2, lines 29 - 40; the device described can be interpreted to be a processing platform).

As per claim 6, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a network coupled to the processing platform (see Rapaport et al., column 2, lines 26 - 28).

As per claim 7, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system wherein the storage platform comprises cached memory (see Rapaport et al., column 5, lines 17 – 21 and figure 1, item 106; it is inferred that random access memory is used as cached memory).

As per claim 8, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches where the system is maintained in a Personal Digital Assistant (PDA) (see Rapaport et al., column 5, lines 22 – 26; the examiner interprets a “web-enabled telephone” as a personal digital assistant).

As per claim 9, which is dependent on claim 6, Rapaport and Ezekiel teach the system of claim 6 (see rejection above). Rapaport et al. further teaches the system wherein the network is the internet (see Rapaport et al., column 2, lines 26 – 28).

As per claim 10, which is dependent on claim 6, Rapaport and Ezekiel teach the system of claim 6 (see rejection above). Rapaport et al. further teaches the system comprising a host computer coupled to the network, the host computer for communicating with the processing platform (see Rapaport et al. column 6, lines 1 – 4; by accessing a search engine via a computer

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network, it can be inferred that the processing platform is communicating with a search engine host computer).

As per claim 11, which is dependent on claim 1, Rapaport and Ezekiel teach the method of claim 1 (see rejection above). Rapaport et al. further teaches an eye-tracking device coupled to the processing platform (see Rapaport et al. column 3, lines 1 – 3).

As per claim 12, which is dependent on claim 11, Rapaport and Ezekiel teach the method of claim 11 (see rejection above). Rapaport et al. further teaches that the eye-tracking device is enabled to monitor pupil dilation (see Rapaport et al., column 25, lines 32 – 35).

As per claim 13, Rapaport teaches a system that enables a recording of user-viewable visual stimuli comprising:

a processing platform for:

executing code capable of recording a user-viewable visual stimuli (see Rapaport et al., column 2, lines 34 – 40; the examiner interprets user-viewable stimuli to be any data viewable by the user);

verifying a change in the visual stimuli (see Rapaport, column 12, lines 33 – 37; the examiner interprets determining whether a scroll bar is depressed as verifying a change in visual stimuli)

creating a visual event related to the change in the visual stimuli (see Rapaport, column 12, lines 37 – 40; the examiner interprets changing the activation value of the profile

relating to the media file as creating a visual event relating to the change in visual stimuli); and

and to the change in the user's eye position with respect to a portion of the visual stimuli; (see Rapaport, column 25, lines 30 – 35; column 12, lines 55-58; The coordinates of eye gaze position is the user's eye position with respect to a portion of the visual stimuli column 25, lines 32 – 35; the examiner interprets changing a rate of progression value as creating a visual event).

a storage platform for storing at least the user-viewed visual stimuli, the storage platform coupled to the processing platform that display the change in the visual stimuli in association with the changes (see Rapaport et al., column 2, lines 32 - 34).

The change in the visual stimuli, in association with the change in the user's eye position with respect to a portion of the visual stimuli, at a specific time that a user viewed the visual stimuli at a specific time that a user viewed the visual stimuli. (see Rapaport, column 12, lines 55-58; It is inherent that coordinates is measured at a specific time)

However Rapaport fails to teach creating a visual event as a result of a browser event that causes a change in the visual stimuli and;

Ezekiel teaches creating a visual event as a result of a user interaction event that causes a change in the visual stimuli;

It would have been obvious to an artisan at the time of the invention to include Ezekiel's teaching with system of Rapaport in order to provide users with a computer system that can automatically and dynamically construct user inter menus "on the fly."



As per claim 14, which is dependent on claim 13, Rapaport and Ezekiel teach the data signal of claim 13 (see rejection above). Rapaport teaches a parameter related to a visual event, wherein the parameter is a network address of all online content immediately displayed within a browser window (see Rapaport et al., column 9, lines 49 – 53).

As per claim 15, which is dependent on claim 13, Rapaport and Ezekiel teach the system of claim 13 (see rejection above). Rapaport teaches parameter related to the visual event, wherein the parameter is a two-dimensional offset of the online content as it is displayed within a browser window (see Rapaport, column 25, lines 25 – 29; it can be inferred that if the number of scrolled pages per minute are calculated, the two-dimensional offset for each page of the content must be calculated and stored).

As per claim 18, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport further teaches the system of claim 1, wherein the change is caused by a user (see Rapaport et al., column 2, lines 34 – 40).

As per claim 19, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1. Ezekiel teaches wherein a change in visual stimuli is caused by a source of the visual stimuli (see, Ezekiel; column 3, lines 10-40)

As per claim 20, which is dependent on claim 1, Rapaport teaches the system of claim 1. Rapaport does not teach the system of claim 1, wherein the change is caused by the processing platform. (see, Ezekiel; column 3, lines 10-40)

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As per claim 21, it is of similar scope to claim 13 and is rejected under the same rationale.

***Response To Argument***

Applicant's arguments with respect to claims 1-15, and 18-21 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571) 272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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